1951 **K** **File No.** O. Arbitration/51

Legal Department

A. **BRANCH**

Subject:— Opinions under the Indian Arbitration Act, 1940

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C O N T E N T S.

Legal Department Vol. No. O. Arbitration /1951.

Sr. No.	R.I. / O. No.	Subject	Pages.
		Opinions under the Arbitration Act, 1940.	
1.	20252 15911 29-9-51 6-10-51.	Question regarding setting aside of the Arbitration award passed against the Sholapur Municipality. (Please also see R.L.A's No. 12076/28-7-51).	
		Indian Arbitration Act, 1940, Sec. 33.	21.

KVI. 27/8.

For the reasons stated in R.L.A's opinion No. 12076 dated 28-7-51, the L.S.G. & P.H.D. was advised that until the award is set aside by a proper legal proceeding, it will bind the Sholapur Municipality. The papers are referred again to R.L.A. for his advice as to the course which Govt. should take in the matter.

Section 32 of the Indian Arbitration Act, 1940, provides that notwithstanding any law for the time being in force, no suit shall lie on any ground whatsoever for a decision epon the existence, effecgt or validity of an arbitration agreement or award, nor shall any arbitration agreement or award be set aside, amended, modified or in any way effected otherwise than as provided in this Act. Section 33 provides~~nt~~ that any party to an arbitration agreement or any person claiming under him desiring to challenge the exitence or validity of an arbitration agreement or an award or to have the effect of either determined, shall apply to the Court and the Court shall decide the question on affidavits. These provisions provide that an arbitration agreement or award shall be contsted only by application and not by a suit. The object appears to be to prevent the parties to an arbitration agitating question ~~relaing~~ relating to the arbitration in any manner other than that provided by the Act. Consequently, a suit when any question may be raised with regard to ~~th~~ the existence and validity of an award, is expressly barred (I.L.R. (1942) Bom. 452). Consequently, the only feasible course available is that the Sholapur Municipalty should contest the validity of the award by applying to the Court under sec. 33 of the Indian Arbitration Act, 1940.

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Office of the R.L.A.

Indian Arbitration Act, 1940. Section 33.

R.L.A's opinion No. 12076, dated 28-7-1951.

As stated in the previous opinion, it is for the Municipality to get the award set aside by a proper legal proceeding. Government cannot take any steps in the matter.

Remembrancer of Legal Affairs.

U.R. to L.S.G. & P.H.D., No. 15911, Dated 6th Oct., 1951.